

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1082

In The
United States Court of Appeals
For the Second Circuit

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
against
ROBERT J. LANE,
Defendant-Appellant.

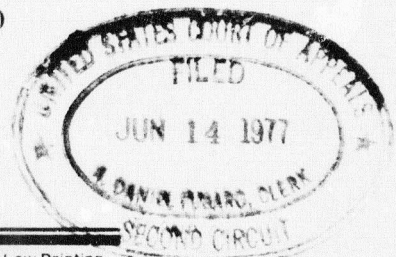
B.P./S

Appeal From Orders and Judgment of Conviction in the
United States District Court for the Western District of
New York

APPENDIX

RICHARD J. ARCARA
United States Attorney in and for
the Western District of New York
Attorney for the Appellee
Office and Post Office Address:
233 U.S. Courthouse
Rochester, New York 14614
Telephone: (716) 263-6760

GERALD J. HOULIHAN
Assistant United States Attorney
Of Counsel



PAGINATION AS IN ORIGINAL COPY

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A1

TAXPAYER DELINQUENCY INVESTIGATION
(Exhibit G-16).

Robert J Lane
Elliott Sq Bldg
Buffalo, NY 14202

SS-7257 72 CARRIDGE CIRCLE 11/1/66
WILLIAMSVILLE, NY

ISSUED TO	A	DATE	FEB 1 1967
TRANSFERRED TO	A-4	DATE	2/1/67
TAX RETURN DUE			
1965			
PERIOD ENDED			
☐ Form 943 - Employer's Annual Agricultural Return			
☒ Form 1040			
OFFICE SYMBOL			

TRANSFERRED TO	A-4	DATE	4/23/68	TRANSFERRED TO		DATE	
TRANSFERRED TO		DATE		TRANSFERRED TO		DATE	

FORM NUMBER	PERIOD ENDING	TAX, PENALTY, INTEREST DUE	DISPOSITION OF TDI PERIOD	INSTRUCTIONS TO DISTRICT OFFICE
	TDI PERIOD		☐ RETURN SECURED ☐ FINAL ☐ NO RETURN SEC. ☐ RECALL ☐ PREV. FILED ☐ NOT LIABLE THIS PERIOD ☐ NO LONGER LIABLE ☐ UNABLE TO LOCATE	☐ RETAIN ON MAILING LIST ☐ REMOVE FROM MAILING LIST ☐ CHANGE MAILING LIST ☐ VERIFY RETURN WAS FILED
G-16 JHE				
OCF				
R.O.				

INVESTIGATIVE HISTORY.

12/23/46 to report to Burf - wk. 1/3/47
 2/10/67 7:00 to 9:40 9/1/66. PS. 1573.14 1673.58 is preparing
 654040 now - will get next week
 10/12/67 Told to Lewis Soc. kept message
 10/24/67 Lane not in - asked to the Soc. call tomorrow
 5/2/68 checked Littel file found no record here
 5/13/68 called Left message
 5/25/68 Left message to Mr. [unclear], checked with S/P Hanaway, he suggested
 to try to contact T/P to get more information
 6/14/68 + Martin, left message with party to have T/P call me.
 8/8/68 Prepared memo from 3212 to Littel for referral.

A3

LETTER, dated 1-10-72 from U.S. Department of Justice
to U.S. Attorney.



Address Reply to the
Division Indicated
and Refer to Initials and Number

SPC:FGF:BSBailor:bmw
5-53-3356

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530
January 10, 1972

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

United States Attorney
502 U.S. Courthouse
Niagara Square
Buffalo, New York 14202

Re: Robert J. Lane
Williamsville, New York

Dear Sir:

Reference is made to a letter dated January 4, 1971, from Regional Counsel Marvin E. Hagen, Internal Revenue Service, New York, New York, recommending that criminal proceedings be instituted against Robert J. Lane on charges of willfully failing to timely file his income tax returns for each of the years 1965 through 1967, in violation of Section 7203 of the Internal Revenue Code of 1954.

It has been determined that prosecution is warranted and you are requested to initiate such action. The Service's reports and exhibits are enclosed. Also enclosed, for such assistance as it may be to you, is a copy of a prosecution memorandum prepared in this office, dated December 23, 1971, a review memorandum dated January 5, 1972, and a conference memorandum dated December 16, 1971, which should be retained as a permanent part of your own files. Form No. 2 of the Tax Division's indictment-information forms should be used as a guide in preparing the information. While the statute of limitations on the first offense will not run until April 15, 1972, the indictment should be returned at the earliest practicable time.

A4

*LETTER, dated 1-10-72 from U.S. Department of Justice
to U.S. Attorney.*

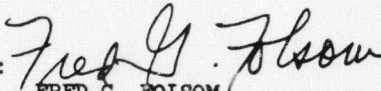
Your attention is called to the provisions of the United States Attorneys' Manual, Title 4: 7 dealing with "Disposition of Case by Plea." The Department considers that the major count in the information in this case will be the count respecting the offense for the year 1965.

This case has been assigned Tax Division Statistical No. 71527. The Assistant Attorney General for Administration has requested that you be advised to show this number on the Monthly Report of New Cases, Form 115.

Please acknowledge receipt of this letter and its enclosures and, in due course, provide us with two copies of the information, the date of filing, the date and nature of any pleas entered, and the manner of final disposition of the case. Upon completion of the case, the Service's reports and exhibits should be returned to the Regional Counsel by certified mail, return receipt requested.

Sincerely yours,

SCOTT P. CRAMPTON
Assistant Attorney General
Tax Division

By: 
FRED G. FOLSOM
Chief, Criminal Section

Enclosures (1 pkg.)

PROCEEDINGS, dated 2-17-72.

Buffalo, N.Y.

HENDERSON, J.

February 17, 1972

ROBERT J. LANE

APPEARANCES:

PHILLIP ABRAMOWITZ, Asst. United States Attorney, appearing on behalf of the Government.

CHARLES J. McDONOUGH, ESQ., appearing on behalf of the defendant.

MR. ABRAMOWITZ:

The United States of America versus Robert J. Lane. Let the record reflect that Mr. Lane is present in court today with his retained attorney, Charles McDonough. Mr. McDonough, have you and your client had the opportunity to review the indictment in this case?

MR. McDONOUGH:

We have. We waive the reading of the indictment. Mr. Abramowitz will furnish me with a copy. We enter a plea of not guilty, your Honor.

THE COURT:

I understand that it is the recommendation of the United States Attorney that Mr. Lane be released in his own recognizance?

MR. ABRAMOWITZ:

That is correct.

THE COURT:

Now, I know Mr. Lane, who stands before me. I know his brother, John. I knew his father very well. I know his mother.

FILED

FEB 18 1972

AT.....O'C.....M.
JOHN K. ADAMS, Cler.

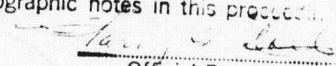
A6

PROCEEDINGS, dated 2-17-72.

I disqualify myself from further proceedings in this case. I contacted Judge Curtin who, within his own lights, knows Mr. Lane, and he asked that I state on the record that he wishes to be disqualified. Therefore, I refer all further proceedings to Judge Burke at Rochester. We are adjourned.

* * * * *

I hereby certify that the foregoing is a true and accurate transcription from the stenographic notes in this proceeding.



Official Reporter
U.S. District Court

A7

LETTER, dated 5-5-72 from Philip B. Abramowitz, Esq., Ass't. U.S.
Attorney to Charles J. McDonough, Esq., Attorney At Law.

Philip B. Abramowitz

PBA:gmc
CR. 1972-31

May 5, 1972

Charles J. McDonough, Esq.
Attorney at Law
930 Walbridge Building
Buffalo, New York 14202

Re: United States of America v. Robert J. Lane

Dear Mr. McDonough:

Enclosed please find motion papers asking that the above referenced matter be set for trial or in the alternative for motions. If convenient, would you please arrange to have your pre-trial motions returnable the same date.

Thank you for your cooperation in this matter.

Very truly yours,

C. DONALD O'CONNOR
Acting United States Attorney

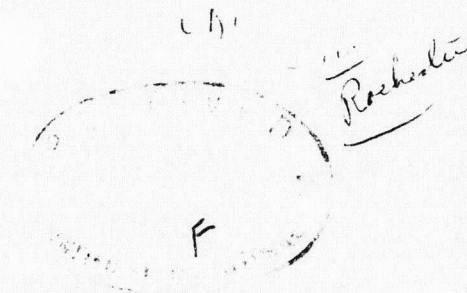
By: PHILIP B. ABRAMOWITZ
Assistant U. S. Attorney

Encl.

A8

LETTER, dated 5-24 72 from Charles J. McDonough, Esq.
to Hon. Harold P. Burke.

MCDONOUGH, BOASBERG, MCDONOUGH & BELTZ
LAW OFFICES
930 WALBRIDGE BUILDING
BUFFALO, NEW YORK 14202



May 24, 1972

Hon. Harold P. Burke
United States District Judge
United States Court House
Rochester, New York

Re: United States v. Robert J. Lane

Dear Judge Burke:

Confirming my telephone request of May 23,
the defendant hereby requests that the defendant have
until June 29, 1972, to make all pretrial motions herein.

Thanking you for your consideration of our
request, I remain

Sincerely yours,

Charles J. McDonough

CJM/L

cc-
Philip B. Abramowitz, Esq.
Assistant U. S. Attorney
Buffalo, N.Y.

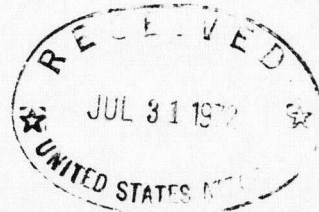
A9

LETTER, dated 7-28-72 from Hon. Harold P. Burke to Philip B. Abramowitz, Esq., Ass't. U.S. Attorney and Charles J. McDonough, Esq.

United States District Court
WESTERN DISTRICT OF NEW YORK
Rochester

CHAMBERS OF
HAROLD P. BURKE
DISTRICT JUDGE

July 28, 1972



Philip B. Abramowitz, Esq. ✓
Assistant United States Attorney
U. S. Courthouse
Buffalo, N.Y. 14202

Charles J. McDonough, Esq.
Attorney at Law
930 Walbridge Building
Buffalo, N.Y. 14202

Re: United States vs. Robert J. Lane ✓
Cr: 1972-31

Dear Sirs:

I have definitely set for trial the above entitled case to follow United States vs. Adel, a tax evasion case. The Adel case will proceed to trial on September 6, 1972 at 10:00 A.M.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Harold P. Burke', written over the typed name.

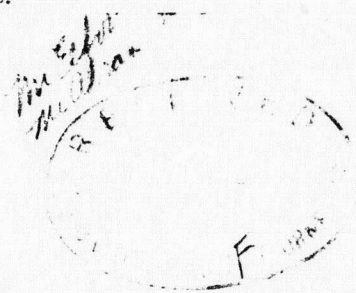
HAROLD P. BURKE
U. S. District Judge

HPB:jem

A10

LETTER, dated 8-8-72 from Charles J. McDonough, Esq.
to Hon. Harold P. Burke.

MCDONOUGH, BOASBERG, MCDONOUGH & BELTZ
LAW OFFICES
930 WALBRIDGE BUILDING
BUFFALO, NEW YORK 14201



August 8, 1972

C
O
P
Y

Hon. Harold P. Burke
U. S. District Judge
U. S. Court House
Rochester, New York

Re: United States v. Robert J. Lane
Cr: 1972-31

Dear Judge Burke:

This will acknowledge receipt of your letter of July 28, setting the above case down for trial to follow U. S. v. Adel, on September 6, 1972.

Following my recent illness, Erie County Judge William J. Heffron set down the case of People v. Joseph Perel, an abortion case, for trial on September 5, 1972. I anticipate that the Perel case will take about three weeks for trial.

I must therefore request that a new date for the trial of U. S. v. Lane be set for sometime in October.

Thanking you for your consideration and awaiting further word from you here, I remain

Sincerely yours,

CJM/L

Charles J. McDonough

Philip B. Abramowitz, Esq.
Assistant U. S. Attorney

A11

LETTER, dated 10-3-72 from Philip B. Abramowitz, Esq., Ass't. U.S.
Attorney to Charles J. McDonough, Esq.

Philip B. Abramowitz

PBA:gmc
CR. 1972-31

October 3, 1972

Charles J. McDonough, Esq.
Attorney at Law
930 Walbridge Building
Buffalo, New York 14202

Re: United States v. Robert J. Lane
Criminal No. 1972-31

Dear Mr. McDonough:

John Elfvin has asked me to advise you that Judge Burke has directed you appear before him in Rochester on Friday, October 6, 1972 at 10:00 a.m. to set a date for trial in the case of United States v. Lane. It is my understanding that Judge Burke wants the trial to begin either at 2:00 p.m. on Tuesday, October 10th, or at 10:00 a.m. on Wednesday, October 11th.

Very truly yours,

JOHN T. ELFVIN
United States Attorney

By: PHILIP B. ABRAMOWITZ
Assistant U.S. Attorney

A12

LETTER, dated 10-30-72 from Charles J. McDonough, Esq.
to Hon. Harold P. Burke.

MCDONOUGH, BOASBERG, MC DONOUGH & BELTZ
LAW OFFICES
930 WALBRIDGE BUILDING
BUFFALO, NEW YORK 14202



JTE
10/31/72
JAE

October 30, 1972

C
O
P
Y

Hon. Harold P. Burke
U. S. District Judge
U. S. Court House
Rochester, N.Y.

Re: United States v. Robert J. Lane (Cr: 1972-31)

Dear Judge Burke:

I have been advised that trial of the above case was recently set for next Monday, November 6, 1972, at 10 A.M. at Rochester.

On October 27, I finished a three-week trial before Erie County Judge William G. Heffron in the case of People v. Joseph Perel. I had anticipated that I would have no further trial commitments thereafter, prior to the Lane case in your court.

However, upon the order of the Hon. Frederick M. Marshall, Criminal Administrative Judge of the Eighth Judicial District, I have been ordered to trial in People v. Samuel Graziano before the Hon. Joseph Mattina, Erie County Judge. The District Attorney moved the case, a 1969 indictment, for trial on October 30. However, Judge Mattina gave me a few days to prepare for trial but ordered the trial to proceed, without further adjournment, next Monday, November 6.

The Graziano indictment contains 38 counts of grand larceny, petit larceny and official misconduct. The trial will take about a month.

A13

LETTER, dated 10-30-72 from Charles J. McDonough, Esq.
to Hon. Harold P. Burke.



MCDONOUGH, BOASBERG, Mc DONOUGH & BELTZ
LAW OFFICES
930 WALBRIDGE BUILDING
BUFFALO, NEW YORK 14202

Page 2 - Hon. Harold P. Burke

I am therefore compelled to request a further
adjournment in United States v. Lane until either early
December or until sometime in January 1973.

Thanking you for your consideration, I remain

Sincerely yours,

Charles J. McDonough

CJM/L

cc-
Philip B. Abramowitz, Esq.
Assistant U. S. Attorney

C
O
P
Y

LETTER, dated 10-31-72 from Hon. Harold P. Burke to
Charles J. McDonough, Esq.

October 31, 1972

Charles J. McDonough, Esq.
Attorney at Law
930 Walbridge Building
Buffalo, New York 14202

Re: United States vs. Lane
Cr: 1972-31

Dear Mr. McDonough:

I have your letter of October 30, 1972 requesting a further adjournment for trial until either early December or until some time in January of 1973.

This case was definitely set for trial to follow United States vs. Adel, a tax evasion case. My letter to you dated July 28, 1972 stated that the Adel case would proceed to trial on September 6, 1972. Under date of August 8, 1972 you wrote me stating that People vs. Perel had been set for trial in the Erie County Court on September 5, 1972, and requested that a new date for the trial in United States vs. Lane be set for some time in October. I honored that prior commitment.

United States vs. Lane was again noticed on October 10, 1972, to fix a trial date. At that time your representative appeared and stated that you were engaged in a trial and would not be ready to proceed with United States vs. Lane until November. Upon his representation I then fixed November 6 as a definite trial date. Your letter of October 30 now informs me that you have to go to trial in People vs. Graziano in the Erie County Court. According to your letter to me of October 30, the date for trial in the Graziano case was not fixed until after you were already committed to trial in United States vs. Lane on November 6.

A15

LETTER, dated 10-31-72 from Hon. Harold P. Burke to
Charles J. McDonough, Esq.

- 2 -

I have never had any difficulty with the
state or county judges in their failure to honor a
prior trial commitment in this court. I do not
anticipate any in this case.

Sincerely yours,


HAROLD P. BURKE
U. S. District Judge

cc: John T. Elfvin, United States Attorney

Gerald J. Houlihan, Assistant United States Attorney

HPB:jem

A16

LETTER, dated 11-1-72 from Justice Frederick M. Marshall to
Hon. Harold P. Burke.



SUPREME COURT CHAMBERS
STATE OF NEW YORK
BUFFALO, NEW YORK

CHAMBERS OF
FREDERICK M. MARSHALL
JUSTICE

ADMINISTRATIVE JUDGE
FOR CRIMINAL JUSTICE
8TH JUDICIAL DISTRICT

November 1, 1972

Honorable Harold P. Burke
United States District Court
United States Courthouse
Rochester, New York 14614

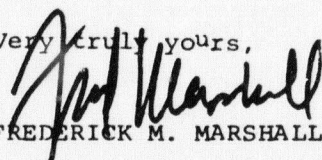
Dear Judge Burke:

Charles J. McDonough, Esq. was in to see me
this morning relative to your letter to him of October
31, 1972 concerning the case of United States v. Lane.

I would respectfully call to your attention
that the Graziano case, in which Mr. McDonough has been
ordered to trial on November 6, 1972, is a three year
old indictment involving a public official. The case
has been delayed because of the trial of a co-defendant,
also a public official, and Mr. McDonough's protracted
illness. I have had Mr. McDonough's assurance, even
prior to summer recess, that he would be physically
able to move to trial in this case and was directed by
me even before his engagement in the Perel case to
proceed with the Graziano case immediately following
Perel. It is in the public interest that the Graziano
case be no longer delayed. I am afraid that we would
be faced with a motion to dismiss for failure to
prosecute and moreover, and more important, the dis-
position of this case is holding up the publication of
a Grand Jury presentment. The District Attorney has
urged me to communicate with you and to present these
facts to you.

I join in Mr. McDonough's application for a
continuance of the Lane trial.

Very truly yours,


FREDERICK M. MARSHALL

FMM/kbv

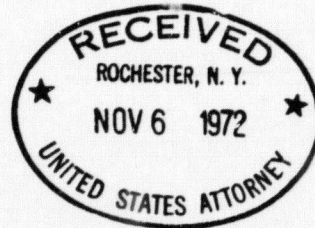
A17

LETTER, dated 11-1-72 from Hon. Frederick M. Marshall to
Charles J. McDonough, Esq.



SUPREME COURT CHAMBERS
STATE OF NEW YORK
BUFFALO, NEW YORK

CHAMBERS OF
FREDERICK M. MARSHALL
JUSTICE
ADMINISTRATIVE JUDGE
FOR CRIMINAL JUSTICE
8TH JUDICIAL DISTRICT



November 1, 1972

file Lou

Charles J. McDonough, Esq.
McDonough, Boasberg, McDonough & Beltz
930 Walbridge Building
Buffalo, New York 14202

Dear Mr. McDonough:

I have this date written to the Honorable
Harold P. Burke and have outlined our problem to
him.

I must insist that the Graziano case be
disposed of and you are directed to appear before
Judge Mattina on Monday morning to commence the
selection of a jury.

Very truly yours,

FREDERICK M. MARSHALL

FMM/kbv
Enclosures

Self-Explanatory - CJMCO

A18

LETTER, dated 11-2-72 from Hon. Harold P. Burke to
Hon. Frederick M. Marshall.

November 2, 1972

Hon. Frederick M. Marshall
Supreme Court Chambers
Buffalo, New York

Dear Judge Marshall:

I have your letter of November 1, 1972
relative to United States vs. Lane in our court.

Under the circumstances I yield to
your trial date of November 6 for People vs.
Graziano. I think the misunderstanding came about
because Mr. McDonough did not inform you that he
had a prior commitment in this court to try
United States vs. Lane on November 6, and that
this court was not informed by Mr. McDonough on
October 10 when United States vs. Lane was fixed
for trial on November 6, that he would be unavailable
for trial in this court because of a prior commitment
in Graziano.

With personal regards, I am

Sincerely yours,

HAROLD P. BURKE

HPB:jem

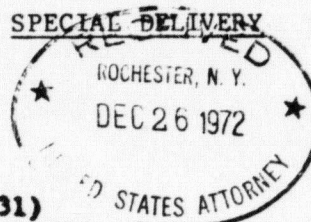
A19

LETTER, dated 12-20-72 from John T. Elfvin, U.S. Attorney to
Hon. Harold P. Burke.

JTE:bab

December 20, 1972

Honorable Harold P. Burke
United States District Judge
Federal Building
Church and Fitchburg Streets
Rochester, New York 14614



RE: United States v. Lane (CR 1972-31)
United States v. Stinson (CR 1971-58)

Dear Judge Burke:

I have been following the course of People v. Graziano, the case in Erie County Court in which Buffalo Attorney Charles J. McDonough has been representing the defendant. Yesterday's Buffalo Courier Express stated that the attorneys were scheduled to deliver their summations yesterday and that the case will be given to the jury today. The proceeding has been a long one, having commenced on or about November 8, 1972.

You had scheduled the Lane case for trial during September originally but it was not reached due to Mr. McDonough's originally alleged involvement in another trial and finally his absence from the United States. It was then set at the head of the cases to be tried in October but Mr. McDonough then was engaged or about to be engaged in and with the case which was to have been tried in September. The Lane trial then was definitely and absolutely fixed for November 6, 1972. Mr. McDonough advised Assistant United States Attorney Houlihan that Supreme Court Justice Frederick M. Marshall, Administrative Judge for Criminal Justice, 8th Judicial District, had ordered

LETTER, dated 12-20-72 from John T. Elfvin, U.S. Attorney to
Hon. Harold P. Burke.

CR 1972-31; CR 1971-58

-2-

JTE:bab

him to begin the trial of the Graziano case on that same date. I was in Rochester at the time this word came to Mr. Houlihan, I conveyed it to you, I telephoned Judge Marshall and I reported to you that what Mr. McDonough had stated was true, as was your surmise that Mr. McDonough had not informed Judge Marshall that Mr. McDonough had already been ordered on by you. You released Mr. McDonough from his November 6th trial date before you.

Now Mr. McDonough ought to be available for the Lane case; but I have discovered a further complication which can only be resolved between you and United States District Judge John T. Curtin. Judge Curtin has ordered Mr. McDonough and me to be ready for the trial of the Stinson case January 2, 1973. Stinson is another tax case -- one more complicated and of longer duration than Lane -- which is being handled by Assistant United States Attorney Philip B. Abramowitz.

Mr. Abramowitz is ready in Stinson, as is Mr. Houlihan in Lane. It is my preference and desire, to the extent that the same have persuasiveness, ~~to~~ to go with United States v. Lane on or before January 2nd. It is requested that I receive some further word from the Court in these circumstances.

Respectfully,

JOHN T. ELFVIN
United States Attorney

ccs: Honorable John T. Curtin
Honorable Frederick M. Marshall
Charles J. McDonough, Esq.

Blind ccs: Mr. Abramowitz
✓Mr. Houlihan

BEST COPY AVAILABLE

A21

LETTER, dated 10-3-73 from Gerald J. Houlihan, Ass't. U.S.
Attorney to Charles J. McDonough, Esq.

October 3, 1973

Charles J. McDonough, Esq.
930 Walbridge Building
Buffalo, New York 14202

Re: United States v. Robert Lane, Cr. 1972-31

Dear Mr. McDonough:

Please be advised that the above-named case will appear
on the criminal calendar on October 9, 1973, in order
to fix a date for trial.

Very truly yours,

JOHN T. ELFVIN
United States Attorney

By: GERALD J. HOULIHAN
Assistant United States Attorney

GJH:vf

A22

LETTER, dated 10-10-73 from Gerald J. Houlihan, Ass't. U.S.
Attorney to Charles J. McDonough, Esq.

October 10, 1973

Charles J. McDonough, Esq.
930 Walbridge Building
Buffalo, New York 14202

Re: United States v. Robert Lane, Cr. 1972-31

Dear Mr. McDonough:

This will confirm my telephone conversation with your secretary yesterday advising that Judge Burke has set a trial date of November 13, 1973, in the referenced matter.

Since you indicated in our telephone conversation on October 9th that the month of November was generally free for you, I advised the Court accordingly. The trial date of November 13th is a day certain.

Very truly yours,

JOHN T. ELFVIN
United States Attorney

By: GERALD J. HOULIHAN
Assistant United States Attorney

cc: Intelligence Division
Internal Revenue Service
111 West Huron Street
Buffalo, New York 14202

A23

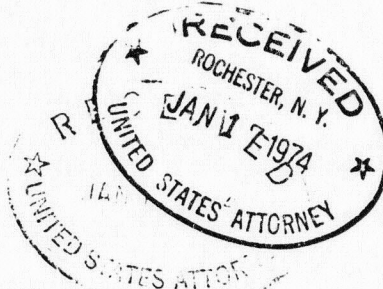
STATUS REPORT, dated 1-17-74 from Gerald J. Houlihan, Esq.,
Ass't. U.S. Attorney.

SPC:LKB:BSBailor:tjm
5-53-3356

DEPARTMENT OF JUSTICE
Washington, D.C. 20530

January 11, 1974

United States Attorney
Buffalo, New York



Sir:

In re: United States v. Robert J. Lane
(WD N.Y.) (71527)

Please furnish the information checked below in connection with the
above-entitled case and return this form promptly to the Tax Division.

Sincerely yours,

SCOTT P. CRAMPTON
Assistant Attorney General
Tax Division

Lawrence K. Bailey
By: LAWRENCE K. BAILEY
Chief, Criminal Section

(X) Present status Def. requested continuance due to
sickness of defendant's witness. case will be
retried again for trial in January
() Date of indictment _____ () Furnish two copies
() Date of information _____ () Furnish two copies
() Manner of disposition:
 () Plea _____ Date _____
 () Trial: To Court () or To Jury ()
 () Verdict and date _____
() Sentence and date _____

() Advise if fine has been paid in full _____
() Did defendant appeal? If so, give date: _____

Date January 17, 1974

Gerald J. Houlihan
Asst. United States Attorney

PLEASE RETURN BOTH COPIES

A24

STATUS REPORT, dated 8-21-74 from Gerald J. Houlihan, Esq.,
Ass't. U.S. Attorney.

011872-51
674

SPC:LKB:BSBailor:tjm
5-53-3356

DEPARTMENT OF JUSTICE
Washington, D.C. 20530

August 15, 1974

United States Attorney
Buffalo, New York

Sir:

In re: United States v. Robert J. Lane
(WD N. Y.) (71527)

Please furnish the information checked below in connection with the
above-entitled case and return this form promptly to the Tax Division.

Sincerely yours,

SCOTT P. CRAMPTON
Assistant Attorney General
Tax Division

By: L. K. Bailey
LAWRENCE K. BAILEY
Chief, Criminal Section

(X) Present status This matter has been moved for trial on several
occasions. This past week the attorney for the defendant died. As of this
date, there has been no substitute of attorneys. I presume that that will
be coming shortly. In any event, the matter will be moved for trial at the
October () Date of indictment () Furnish two copies
term. Due () Date of information () Furnish two copies
to the () Manner of disposition:
trial schedule, () Plea Date
it is not likely () Trial: To Court () or To Jury ()
to be reached be- () Verdict and date
fore November or
December of 1974. () Sentence and date

() Advise if fine has been paid in full
() Did defendant appeal? If so, give date:

Date August 21, 1974

Gerald J. Houlihan
Assistant United States Attorney

PLEASE RETURN BOTH COPIES

FORMERLY TX-22

FORM LAA-114

1-28-74

TRANSCRIPT OF PROCEEDINGS, dated 10-15-74.

UNITED STATES OF AMERICA
IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
- vs -	)	
	)	CR: NO. 1972-31
ROBERT J. LANE,	)	
	)	
Defendant.	)	
-----	)	

Transcript of proceedings had in the above-entitled matter, before the HON. HAROLD P. BURKE, United States District Judge, in the United States District Court, at Rochester, New York, on Tuesday, October 15, 1974.

APPEARANCES:

RICHARD J. ARCARA, ESQ.
United States Attorney
(By Gerald J. Houlihan, Esq.)
United States Courthouse
Rochester, New York 14614

Appearing on behalf of the Government.

MESSRS. DOYLE & DENMAN
(By George P. Doyle, Esq.)
Ellicott Square Building
Buffalo, New York 14203

Appearing on behalf of the Defendant.

TRANSCRIPT OF PROCEEDINGS, dated 10-15-74.

Rochester, New York

Tuesday, October 15, 1974

- - -

THE CLERK: United States versus Robert Lane; motion by the Government for status and determination of counsel. Motion by the Government to set date for trial.

MR. DOYLE: Good morning, Your Honor. I am George P. Doyle of the firm of Doyle & Denman, appearing for Mr. Lane. With respect to the status of counsel, Your Honor, Mr. Lane has contacted me within the last week, and either my brother, Vincent Doyle, or I will be trying this case and will appear of counsel to Mr. Lane. With respect to the status of readiness, I understand the Court is setting trial dates in January. I envision absolutely no difficulty whatsoever with being ready.

THE COURT: All right. This case will follow along after those other cases.

MR. DOYLE: Thank you.

THE COURT: Probably it will be reached a little after the 15th of January.

MR. DOYLE: Thank you, Your Honor.

MR. HOULIHAN: Thank you, Your Honor.

- - -

A27

LETTER, dated 9-18-75 from Gerald J. Houlihan, Esq., Ass't. U.S.
Attorney to George P. Doyle, Esq.

72-0088
GJH:kmq

September 18, 1975

George P. Doyle, Esq.
10 Ellicott Square Building
Buffalo, New York

Re: United States v. Robert J. Lane
Cr. 1972-31

Dear George:

This will confirm our telephone conversation wherein I advised that October 14, 1975 is a day certain for the trial in the referenced matter. Judge Burke has been informed of your ability to begin the case on that date, and the jury may be picked at 2:00 p.m. on October 14, 1975.

Very truly yours,

RICHARD J. ARCARA
United States Attorney

By: GERALD J. HOULIHAN
Assistant United States Attorney

cc: Hon. Harold P. Burke

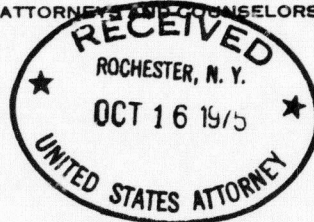
A28

LETTER, dated 10-15-75 from George P. Doyle, Esq.
to Hon. Harold P. Burke.

Doyle & Denman

ATTORNEYS AND COUNSELORS AT LAW

JAMES B. DENMAN
GEORGE P. DOYLE



ELLCOTT SQUARE BUILDING
BUFFALO, NEW YORK 14203
TELEPHONE 886-3486
AREA CODE 716

October 15, 1975

Judge Harold P. Burke
United States District Judge
United States Court House
Rochester, New York 14614

Re: Robert J. Lane - CR. NO. 1972 - 31

Dear Judge Burke:

Pursuant to the request of John W. Condon, Jr., Esq.,
I wish to advise you that the case in which I am presently
appearing before Judge Curtin in Buffalo is expected to conclude
by Monday, October 27, 1975.

Very truly yours,

DOYLE & DENMAN

George P. Doyle
By:
GEORGE P. DOYLE

GPD/clo

cc: Gerald J. Houlihan, Esq.
Assistant U.S. Attorney
United States Court House
Rochester, New York 14614

John W. Condon, Jr., Esq.
1440 Rand Building
Buffalo, New York

C
O
P
Y

A29

LETTER, dated 10-28-75 from George P. Doyle, Esq. to Gerald J.
Houlihan, Esq., Ass't. U.S. Attorney.

Doyle & Denman

ATTORNEYS AND COUNSELORS AT LAW

JAMES B. DENMAN
GEORGE P. DOYLE



October 28, 1975

Gerald J. Houlihan, Esq.
Assistant United States Attorney
Western District of New York
United States Court House
Rochester, New York 14614

Re: United States vs. Robert Lane

Dear Mr. Houlihan:

This will confirm our telephone conversation of October 28, 1975 wherein the trial of the United States vs. Robert Lane has been adjourned and continued from November 3, 1975. My trial commitments have prohibited me from being available on that date. It is understood that the next possible trial date for this matter is November 20, 1975. I understand and stipulate on behalf of the defendant that the time delay from November 3, 1975 to November 20, 1975 is charged to the defendant, Robert Lane.

Very truly yours,

DOYLE & DENMAN

By:
GEORGE P. DOYLE

GPD/clo

ORDER OF HON. HAROLD P. BURKE, dated 12-5-75, Denying
the Motion to Dismiss the Indictment.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES

- vs -

CR: 1972-31

ROBERT J. LANE

✓ Gerald J. Houlihan
Assistant United States Attorney
for the government

George P. Doyle
Ellicott Square Building
Buffalo, N.Y. 14203

John W. Condon, Jr.
1440 Rand Building
Buffalo, N.Y. 14203
Attorneys for defendant

The indictment herein was filed February 17,
1972. He was arraigned on February 17, 1972 in the
presence of his counsel.

On May 5, 1972 the United States Attorney moved
to set a date for trial. On July 28, 1972 this court wrote
the Assistant United States Attorney in charge of the case
and Charles J. McDonough, defendant's attorney, stating as
follows: "I have definitely set for trial the above
entitled case (Lane) to follow United States vs. Adek, a
tax evasion case." I stated that the Adel case will proceed
to trial on September 4, 1972 at 10:00 A.M. Under date of

*ORDER OF HON. HAROLD P. BURKE, dated 12-5-75, Denying
the Motion to Dismiss the Indictment.*

- 2 -

May 14, 1972 defendant's then counsel wrote this court requesting that the defendant have until June 29, 1972 to make all pre-trial motions. By motion filed October 5, 1972 the United States Attorney moved for a hearing at Rochester on the 10th of October 1972. On or about October 19, 1972 the United States issued subpoenas for witnesses and had them served on the witnesses returnable November 6, 1972. Meanwhile defendant's attorney McDonough became involved in the trial of a state case which conflicted with the trial date already set for November 6, 1972. After correspondence with the defendant's then attorney this case finally deferred to the state case in which Attorney McDonough was involved. The Lane case was later set for trial by agreement on a fixed date. When that date arrived attorney McDonough advanced another excuse for the delay of the trial, viz, that the defendant's wife would be a necessary witness at his trial and that she was then experiencing physical difficulties which looked to be at that time of some duration. It was therefore impossible at that time to fix a definite trial date. Before another definite trial date could be fixed attorney McDonough died.

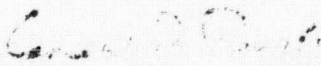
*ORDER OF HON. HAROLD P. BURKE, dated 12-5-75, Denying
the Motion to Dismiss the Indictment.*

- 2 -

By notice of motion and motion filed May 15, 1974 the United States Attorney moved to set a date for trial. On October 9, 1974 the United States Attorney again moved to set a date for trial. On or about May 14, 1975 the United States Attorney filed a notice of readiness. On or about October 9, 1975 the defendant, appearing by Condon, Klocke, Ange, Gervase & Sedita, 1440 Rank Building, Buffalo, New York, moved on supporting papers to dismiss the indictment on grounds specifically stated. On due consideration it is hereby

ORDERED that the motion to dismiss the indictment is in all respects denied.

At the earliest possible date I will fix a definite date for trial.


HAROLD P. BURKE
United States District Judge

December 5, 1975.

A33

LETTER, dated 12-19-75 from Hon. Harold P. Burke to George P. Doyle, Esq., John W. Condon, Jr., Esq. and Gerald J. Houlihan, Esq., Ass't. U.S. Attorney.

United States District Court
WESTERN DISTRICT OF NEW YORK
Rochester

December 19, 1975

CHAMBERS OF
HAROLD P. BURKE
DISTRICT JUDGE

George P. Doyle
Attorney at Law
Ellicott Square Building
Buffalo, New York 14203

John W. Condon, Jr.
Attorney at Law
1440 Rand Building
Buffalo, New York 14203

✓ Gerald J. Houlihan
Assistant United States Attorney
233 U. S. Court House
Rochester, New York 14614

Re: United States vs. Robert J. Lane
Cr: 1972-31

Dear Sirs:

I have rescheduled and fixed dates for a number of criminal cases in January and February 1976.

The above case is definitely scheduled for trial On January 19, 1976.

Very truly yours,


HAROLD P. BURKE
U. S. District Judge

HPB:jem

TRANSCRIPT OF PROCEEDINGS, dated 5-10-76.

UNITED STATES OF AMERICA
IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
-vs-	)	
	)	CR: NO. 1972-31
ROBERT J. LANE,	)	
	)	
Defendant.	)	
-----	)	

Transcript of proceedings had in the above-entitled
matter, before the HON. HAROLD P. BURKE, United States
District Judge, in the United States District Court, at
Rochester, New York, on Monday, May 10, 1976.

APPEARANCES:

RICHARD J. ARCARA, ESQ.
United States Attorney
(By Gerald J. Houlihan, Esq.)
United States Courthouse
Rochester, New York 14614

Appearing on behalf of the Government.

MESSRS. DOYLE & DENMAN
(By George P. Doyle, Esq.)
Ellicott Square Building
Buffalo, New York 14203

Appearing on behalf of the Defendant.

TRANSCRIPT OF PROCEEDINGS, dated 5-10-76.

Rochester, New York

Monday, May 10, 1976

- - -

THE CLERK: United States versus Robert J. Lane,
Motion by the Government to set date for trial.

MR. HOULIHAN: It is a failure to file case,
Your Honor. It is the one from Buffalo.

MR. DOYLE: I am George Doyle, and I am appearing for Mr. Lane, and I am counsel to him on this motion. I'm presently scheduled to pick a jury before Judge Curtin tomorrow morning, which jury is to be held while I conclude a State case before Judge Jeffron. The earliest date that I can envision being ready for trial, only because of those two trial commitments, Your Honor, would be in late June, and after that at the convenience of the Court we would be ready.

THE COURT: You mean to say you are definitely committed in cases, or are they just on the calendar?

MR. DOYLE: No. I am definitely committed to pick a jury in front of Judge Curtin tomorrow morning at nine thirty.

THE COURT: How long a case is that?

MR. DOYLE: That case will last approximately a week, but it is being held so I could conclude it

TRANSCRIPT OF PROCEEDINGS, dated 5-10-76.

case which I am on in front of Judge Heffron in County Court. That case is anticipated to last three weeks, so that I am talking about three weeks in front of Judge Heffron followed by a week in front of Judge Curtin. I'm talking about a month's firm trial commitment. That is why I am saying in late June I anticipate that I will be open.

THE COURT: Well, I'm going to fix this case for the first of June. If you are then committed, of course, you don't have to go on here.

MR. DOYLE: All right. Thank you, Your Honor.

- - -

LETTER, dated 12-2-76 from Eugene Welch, Esq., Ass't. U.S.
Attorney to George P. Doyle, Esq.

Cr. 1972-31
EW:jcw

December 2, 1976

George P. Doyle, Esq.
Ellicott Square Building
Buffalo, New York 14203

Re: United States of America v. Robert J. Lane.
Cr. No. 1972-31.

Dear George:

This is to confirm that on December 1, 1976 I called your office to see if you could try the Robert Lane case before Judge Burke in Rochester on December 7, 1976. A previously scheduled trial for that date had to be cancelled by Judge Burke and he therefore requested that we contact the defense attorneys to attempt to get another trial scheduled for that date.

I was advised by your secretary that you were engaged in trial in state court and would return my call when you returned from court. On Thursday, December 2, 1976, I called your office in the morning and spoke with Mr. Robert Sichel who advised that, in view of the heavy snowstorm in Buffalo, he was the only one in the office. I explained the situation to Mr. Sichel who advised me that you could not go to trial in the Lane case on Tuesday, December 7th, because you were engaged in a grand larceny trial in state court, which trial could not be concluded until Thursday, December 9th at least; especially in view of the lost court days when the heavy snowstall caused the cancellation of court. Mr. Sichel also stated that you needed approximately two weeks advance notice of trial in order to notify your many defense witnesses.

We concluded therefore that the Government will make a motion to set a date for trial, which motion will be returnable December 13, 1976. On December 13th you, Mr. Sichel, or someone from your office will appear before Judge Burke with the authority to schedule you for trial at some date certain far enough in the future for you to properly notify your defense witnesses.

A38

*LETTER, dated 12-2-76 from Eugene Welch, Esq., Ass't. U.S.
Attorney to George P. Doyle, Esq.*

- 2 -

Enclosed you will find a copy of a motion to set a date for trial in this case, which is returnable December 13, 1976.

Very truly yours,

RICHARD J. ARCARA
United States Attorney

By: EUGENE WELCH
Asst. United States Attorney

Enc.

UNITED STATES OF AMERICA
IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NEW YORK

- v8 -

Defendant.

CR: NO. 1972-31

Transcript of proceedings had in the above-entitled matter, before the HON. HAROLD P. BURKE, United States District Judge, in the United States District Court, at Rochester, New York, on Monday, December 13, 1976.

RICHARD J. ARCARA, ESQ.
United States Attorney
(By Gerald J. Houlahan, Esq.)
United States Courthouse
Rochester, New York 14614

Appearing on behalf of the Government.

MESSRS. DOYLE & DENMAN
(By George P. Doyle, Esq.)
Ellicott Square Building
Buffalo, New York 14203

Appearing on behalf of the Defendant.

TRANSCRIPT OF PROCEEDINGS, dated 12-13-76.

Rochester, New York

Monday, December 13, 1976

- - -

THE CLERK: United States versus Robert J. Lane,
motion by the Government to set date for trial.

MR. DOYLE: Good morning, Your Honor. I am
George Doyle, and I'm appearing for the defendant,
Robert Lane.

MR. HOULIHAN: The Government is ready for
trial, Your Honor.

MR. DOYLE: The defendant is also ready, Your
Honor. There is one problem that I would need the
Court's assistance in connection with, but with that
exception, we are ready to go to trial, preferably
late this week or early next week, if possible.

THE COURT: What is the problem?

MR. DOYLE: The one difficulty, Your Honor,
is that Judge Elfvin, who is presently down here, as
I understand, selecting some juries, has also ordered
myself and Mr. Lane, who is serving as counsel to a
co-defendant, to pick a jury in connection with a
matter up in Buffalo. That is a criminal matter that
is some six months old. That is, he was indicted six
months ago. I do not believe that he is anticipating

TRANSCRIPT OF PROCEEDINGS, dated 12-13-76.

we start the trial immediately, but he, at least, wants us to pick a jury tomorrow, and with that one exception, my schedule is clear as is Mr. Lane's.

THE COURT: I will set December 21 for trial, and that is a definite trial date, December 21.

MR. DOYLE: Thank you, Your Honor.

- - -

DOCKET ENTRIES.

CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

HAROLD P. BURKE

CR-1972-3T

D. C. Form No. 100 Rev.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U.S.:
vs.	
ROBERT J. LANE	
Did wilfully and knowingly fail to make income tax return, in violation of Section 7203, Title 26, U.S.C.	
	For Defendant:
	Charles McDonough, Esq.
	Robert Kaiser, Esq.
	(of counsel)
	George Doyle, Esq.
	John Condon, Esq.
	(of counsel)
Offenses: 1965, 1966, 1967	3 Cts.

STATISTICAL RECORD	COS
J.S. 2 mailed	Clerk
J.S. 3 mailed	Marshal
Violation	Docket fee
Title 18	
Sec. 7203	

\$2,000 paid
to H paid if
appealed or argued
If not paid
after appeal judgment
to H entered

DATE	PROCEEDINGS
1972	
Feb. 17	Filed Indictment
Feb. 17	J.S. 2 made
Feb. 17	The deft being duly arraigned enters a plea of not guilty
Feb. 18	Filed Ct. stenographer's minutes of 2/17/1972
Mar. 22	Filed Govt's motion to move action for trial
May 5	Filed the Govt's notice of motion, motion, and affidavit with proof of service, for the Court to set a date for trial of this action, etc., ret. 5/22/1972-Roch.
May 22	Trial to follow CR-1972-61. No appearance for deft.
Oct. 5	Filed the Govt's notice of motion and motion to set a date for trial for criminal trial calendar for the October 1972 trial term ret. 10/10/72 at Roch.
Oct. 29	Filed four subpoenas (D.T.) - Robert A. Casell, Robert C. Fulton, Lorin Luderman, Norma R. Fox, served 10/19/1972
Oct. 26	Filed six subpoenas (D.T.) - Manufacturers and Traders Trust Co., and Dante Marasci, Arlene Lamm, Joseph J. King, Francis E. Conley, served 10/25/1972; Buffalo General Hospital and Eileen Edwards, James Cole, M.D., served 10/27/1972
1973	
Oct. 9	Set date for trial. The Govt. is xxxxxx ready. Trial date 11/13,

DOCKET ENTRIES.

DATE	PROCEEDINGS
1973	
Dec. 3 1974	Filed subpoena Harry Kuszte'niak, served 11/2/1973
May 14	Filed Govt's notice of Readiness
May 15	Filed Govt's notice of motion and motion to set date for trial for the criminal trial calendar, ret. 5/28/1974-Roch.
May 28	✓ Motion by Govt. to set date for trial. The Government is ready and advises the Court that the Deft. is ready. The Court instructs the Govt. to find out if the case can be tried June 3, 1974.
Sept. 10	Filed Govt's notice of motion and motion for Status and Determination of counsel, ret. 10/15/74-Roch. (10/15/74-Roch.)
Oct. 9	Filed the Govt's notice of motion and motion to set date for trial for the criminal trial calendar, ret. 10/15/74, Roch., w/affidavit of service
Oct. 15	✓ Motion by Govt. for status and determination of counsel. Motion by Govt. to set date for trial. George Doyle, Esq., advises the Court that he will be representing the deft. and is ready for trial. Trial to follow DiGaetano.
1975	
Oct. 9	Filed Deft Robert J. Lane's notice of motion and motion to dismiss the Information, etc., ret. 10/14/75-Roch.
Oct. 14	✓ Motion by Deft. to dismiss to be submitted today.
Oct. 21	Filed Govt's response to defendant's motion for dismissal for failure to prosecute
Dec. 8	Filed Decision & Order denying deft's motion to dismiss-BURKE, J.
1976	
Apr. 28	Filed Govt's Notice of Motion to set a date for trial for criminal trial calendar, ret. 5/10/76-Roch.
May 10	✓ Motion by Govt. to set date for trial. The Govt. and the Deft. are ready for trial. Trial date 6/1/1976.
Oct. 4	Filed Govt's Notice of motion and Motion for an Order assigning a Judge to assume responsibility in the above case, and is submitting this motion to the Court for decision without oral argument. Govt. makes application for an order assigning one or more Judges to assume responsibility for this and other cases so that they may be tried within the time period prescribed by the Speedy Trial Act. (18 U.S.C. et. seq.) Sect. 3161
Dec. 3	Filed Govt's motion to set a date for trial, ret. 12-13-76.
Dec. 13	✓ Motion by Govt. to set date for trial. The Govt. and the deft. are ready for trial. Trial date 12/21/76
Dec. 21	Case is moved ready for trial. The jury is duly empaneled.
Dec. 22	✓ Trial is adj. until 12-22-76.
Dec. 22	The Govt. rests. The jury is excused. The Deft. moves for a directed verdict of acquittal. Denied. The Deft. rests. Trial is adj. until 12-23-76.
Dec. 23	After listening to a charge by His Honor, Judge Burke the jury retires to deliberate upon their verdict. The jury return with the following verdict: Guilty count one, guilty count two, guilty count three. Sentence is set for 1-10-77
1977	
Jan. 10	Sentence Adj. until 1/24/1977
Jan. 24	✓ Defendant is sentenced as follows: The Court: On Count One, I impose a fine of \$1,000.00. On Counts two and Three, I impose a fine of \$500.00 on each count. Fine to be paid in ten days. - Burke, J.

CLOSED

BEST COPY AVAILABLE

EXCERPTS FROM TESTIMONY OF RICHARD E. PELLAND, JR.,
IRS Andover Service Center, Andover, Mass. .

7

* * * * *

A I'm employed by the United States Treasury, Internal Revenue Service, Andover Service Center, Andover, Massachusetts.

Q How long have you worked with the Internal Revenue Service?

A Twenty years.

Q In what capacity do you work for them?

A My title is Senior Accounting Technician.

Q In your capacity as Senior Accounting Technician at the Andover Service Center, are you the custodian of the filed income tax returns for the Northeastern United States?

A Yes.

MR. HOULIHAN: Would you mark these for identification?

(Government's Exhibits 1, 2 and 3 marked for identification.)

Q Mr. Pelland, I show you Exhibit 1 marked for identification. Can you tell me what that is?

A Yes. This is a United States Individual Income Tax Return Form 1040 of the calendar year 1965, the name, Robert J. and Delores E. Lane. It is an original return.

Q When was that filed?

A It was received October 29th, 1968.

Q I show you Government's Exhibit 2 marked for identification. Can you tell me what that is?

A It is the United States Individual Income Tax Return,

*Excerpts from Testimony of Richard E. Pelland, Jr.,
IRS Andover Service Center, Andover, Mass. .*

3

Form 1040, for the calendar year 1966, the name Robert J. and Delores E. Lane. It is an original return.

Q When was that filed?

A It was received October 29, 1968.

Q I show you Government's Exhibit 3 marked for identification. Can you tell me what that is?

A This is a United States Individual Income Tax Return, Form 1040, for the calendar year 1967, the name Robert J. and Delores E. Lane. It is an original return.

Q When was that filed?

A It was received April 16th, 1969.

(Government's Exhibits 4, 5 and 6
marked for identification.)

Q Mr. Pelland, I call your attention to the income tax return for the year 1965, Government's Exhibit 1. Can you tell us what the gross income is on the face of that return?

A Yes. There is income of \$22,275.75 from a Schedule C, and there is also income of \$5,200 from W-2 wages.

Q And the Schedule C is business income, is that correct?

A Yes, sir.

Q Excuse me, but you gave \$5,200 on this first one. It looks like it is a "3" and not a "5."

A Yes, sir, it is. It is \$3,200, and not \$5,200.

Q Thank you.

I call your attention to Government's Exhibit 2 marked for identification. Could you tell me what the gross income from the business was?

A Yes, sir. There are two Schedule C's attached to this 1966 return. One has a gross income of \$27,235.22, and the other has gross receipts of \$1,060.45.

Q Calling your attention to G-3 marked for identification, could you tell me what the gross income from business was on that?

A G-3 is the 1967 return. It has a gross income from Schedule C, business, in the amount of \$30,440.64. There is W-2 income wages in the amount of \$422.26, and there is also income from Schedule D, which is the sale of stocks, in the amount of \$291.75.

Q Calling your attention, now, to Government's Exhibit 4 marked for identification, can you tell me what that is?

A Yes, I can. This is an Application for Extension of Time to File, Form 2688. It is an application for the calendar year 1965.

Q And is there any indication on there whether that extension was granted or denied?

A Yes, sir, there is. This extension was denied.

Q Now on a denial of an extension, do you have, then, some days in which to file?

*Excerpts from Testimony of Richard E. Pelland, Jr.,
IRS Andover Service Center, Andover, Mass. .*

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A Yes, sir. You are given ten days from the denial date to file the return.

Q That refers to Government's Exhibit 1, which is the 1965 return, is that right?

A Yes, sir.

THE COURT: What would be the due date, then, for this '65 return?

A The due date for the '65 return would be May 8th, 1966.

Q I show you Government's Exhibit 5 marked for identification. Can you tell me what that is?

A This is an Application for Extension of Time to File, Form 2688, and it is for the calendar year 1966.

Q And how late an extension did Mr. Lane request on that?

A He requested an extension until June 1st, 1967.

Q Was that request granted or denied?

A It was granted.

THE COURT: Then what would be the due date for that return, the '66 return?

A June 1st, 1967, Your Honor.

Q I show you Government's Exhibit 6 marked for identification. Can you tell me what that is?

A Yes, sir. This is a letter from the District Director of Internal Revenue in Buffalo, New York, to Robert J. Lane. It is in relation to the 1967 1040. It is a letter notifying him that his request for an extension of time to

file has been denied.

Q And how many days from the date of the denial does he have to file that?

A Ten days.

Q And what date would then be the required filing date for the 1967 return?

A May 3rd, 1968.

MR. HOULIHAN: I offer Government's Exhibits 1, 2, 3, 4, 5 and 6.

MR. DOYLE: If I may, I would like to have a moment to examine them, Your Honor.

(Pause in the proceedings.)

MR. DOYLE: May I have a preliminary question on the offer, Your Honor?

THE COURT: Go ahead.

VOIR DIRE EXAMINATION

BY MR. DOYLE:

Q I am showing you, sir, what has been marked here as Government's Exhibit 6 for identification, and you identified that as a letter, I think, from the local Director?

A Yes, sir.

Q That would be in the Buffalo Office?

A Yes, sir.

Q This would not, then, sir, be some sort of record that originated out of your office?

* * * * *

*Excerpts from Testimony of Richard E. Pelland, Jr.,
IRS Andover Service Center, Andover, Mass. .*

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(Government's Exhibits 7, 8 and 9 marked
for identification.)

DIRECT EXAMINATION CONTINUED

BY MR. HOULIHAN:

Q I call your attention to Government's Exhibit 9. Can you identify what that is?

A Yes, I can. This is a Certificate of Assessments and Payments, Form 4340. It is an Internal Revenue record used to reflect the filing or failure to file of returns. This particular one is for the calendar year 1965, Form 1040, the name Robert J. and Delores E. Lane.

Q Does that indicate whether the tax due and owing in connection with the 1965 return was received and paid?

A Yes, sir, it was.

Q And I note from that document that there is interest assessed as well?

A Yes, sir.

Q Referring to Government's Exhibit 1 marked for identification, the '65 Individual Income Tax Return of Mr. Lane, this notes that it was received by the District Director on October 29, 1968. Is that interest charged from the date of filing, October, 1968, or the date that appears on the certificate?

A The interest is from the due date of the return.

*Excerpts from Testimony of Richard E. Pelland, Jr.,
IRS Andover Service Center, Andover, Mass. .*

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Q From the due date of the return?

A Yes.

Q And it stops running on the date of filing, on the date of payment?

A On the date of payment, yes, sir.

Q I show you Government's Exhibit 7 marked for identification. Can you tell me what that is?

A Yes, sir. This is also a Certificate of Assessments and Payments, Form 4340. This is for the calendar year 1966, Form 1040, with the name Robert J. and Delores Lane.

Q And that shows that the taxes were paid?

A Yes, sir.

Q What is the date of payment on that?

A November 5th, 1970.

THE COURT: We've got the date of this, but we didn't have the date of payment of the 1965 tax.

THE WITNESS: Your Honor, that is also November 5th, 1970.

Q I show you Government's Exhibit 8 marked for identification. Can you tell me what that is?

A This is a Certificate of Assessments and Payments, Form 4340. This one is for the calendar year 1967, Form 1040, the name Robert J. and Delores E. Lane.

*Excerpts from Testimony of Richard E. Pelland, Jr.,
IRS Andover Service Center, Andover, Mass. .*

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Q And does that show a payment of the taxes due with regard to the 1967 return?

A Yes, sir.

Q What was the date of that payment?

A November 5th, 1970.

MR. HOULIHAN: I offer Government's
Exhibits 7, 8 and 9.

(Pause in the proceedings.)

VOIR DIRE EXAMINATION

BY MR. DOYLE:

Q Just so I understand, sir, this Certificate of Assessments and Payments, this is not a document that you authored?

THE COURT: What is that?

Q Is this a document that you were the author of?

A Meaning did I sign it, sir?

Q Yes. Did you draft it and sign it?

THE COURT: Did you make the assessment?

That is what he is asking.

A No, Your Honor, I did not make the assessment, nor did I sign the Form 4340.

Q As a matter of fact, as you can see, those computations and those entries are made by a Mr. McBurk, are they, sir?

A No, sir.

THE COURT: It doesn't make any differ-

* * * * *

Rochester, New York

Tuesday, December 21, 1976

2:35 p.m.

— — —
(Trial resumed; jury present.)

MR. HOULIHAN: The Government calls
Norma R. Fox.

N O R M A R. F O X,

called as a witness by the Government, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. HOULIHAN:

Q Mrs. Fox, where do you live?

A 12377 Westwood Road, Alden.

Q That is in Alden, New York?

A Alden, New York.

Q Did there come a time that you worked for Robert Lane?

A Yes.

Q And where was that?

A At his Alden office.

Q He had an office in Alden?

A In Alden, on Broad Street.

Q How long did you work for him?

A I think from 1962 until sometime in '66.

Q And did you know him prior to that time?

* * * * *

*Excerpt from Testimony of Michael J. McGillicuddy,
Revenue Officer, IRS.*

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Q Is it the ordinary course of business for all Revenue Officers to keep notes like that?

A Yes, it is.

Q And to file the TY-14 like that?

A Yes, that's right.

Q And you made these entries at or about the time that you made the telephone calls?

A Usually I made them the same day or the day after I made the notations on it. The date would be the date that I did make the call.

Q You did tell us about a first telephone call that you made to the office of Mr. Lane. What date was that?

A On May 13th, 1968.

Q And you did not receive a call back?

A That's right. He was not in. I was told he was not in, and I did not get a call back in.

Q Did you call that office again?

A Yes, I did. I called them again on May 23rd, 1968. I left a message at the office. He was not in again, and I did not get a call back from that call either.

Q Did you do anything after that?

A Yes, I did. On June 14th, 1968, I walked over to Mr. Lane's office, which was in the Ellicott Square Building in Buffalo, New York, and I went into his office and asked for him. I saw the girl there. Mr. Lane was not in. I

left a message and wrote it out on my calling card that we have, to have him contact me the next day in the morning between nine and ten.

Q Did you get contacted at that time?

A I did not.

Q What, if anything, did you do after these three occasions?

A After these three occasions, we do what we call a full compliance check, and because this was 1968, there should have been a 1966 and 1967 return filed also. So I checked to see if those two years were filed along with the '65, and I got a report back that they were not, and after that, then on August 8, 1968, I prepared a memorandum to the Intelligence Division that this taxpayer was delinquent for three years income tax.

Q And the Intelligence Division is the criminal branch of the Internal Revenue Service?

A That's right, sir.

Q Now the referral was on August 8th, and the first time you tried to contact him was some three months earlier, is that right?

A That's right, sir.

MR. HOULIHAN: I offer G-16.

MR. DOYLE: I would like to ask some preliminary questions.

* * * * *

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

office when you asked for him?

A No, he didn't.

MR. DOYLE: I have no other questions.

MR. HOULIHAN: I have no further questions.

(Witness excused.)

R O N A L D K O L B

called as a witness by the Government, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. HOULIHAN:

Q Mr. Kolb, by whom are you employed?

A By the Internal Revenue Service, Intelligence Division.

Q How long have you worked for the Internal Revenue Service?

A Since May of 1967.

Q And in what capacity have you worked for them?

A As a Special Agent, as a Group Manager, and now as Chief
in Louisville, Kentucky.

Q What are your duties as a Special Agent in the Intelligence
Division?

A The duties of a Special Agent are to investigate the
possibility of criminal tax fraud.

Q And in the course of your duties as a Special Agent, did
there come a time that you were assigned to a case involv-
ing a taxpayer, Robert J. Lane?

A Yes.

- A Yes.
- Q When was that?
- A August 15, 1968.
- Q And did there come a time that you had an interview with Mr. Lane?
- A Yes.
- Q When was that?
- A The first interview with Mr. Lane was on September 20, 1968.
- Q When you had this interview with Mr. Lane on September 20, 1968, what, if anything, did you say to him?
- A I informed him of the investigation of the failure to file his personal Form 1040 for the year 1965, '66 and '67. I displayed my credentials and informed Mr. Lane of the functions of a Special Agent and advised him of his Constitutional rights. And then we had an interview after that.
- Q Where did this meeting take place?
- A In the office of the Intelligence Division in Buffalo.
- Q At the time of this interview, did Mr. Lane tell you about his educational background?
- A Yes, sir. We discussed Mr. Lane's background and his history.
- Q When you spoke with him during the interview, did you take notes?
- A Yes.

Q What, if anything, did you do with the notes when you were finished?

A Well, they were rather rough notes. You take notes when you are interviewing, and after the completion of the interview, I then presented a memorandum of those notes.

THE COURT: How long after?

A If not later that day, early the next morning.

Q Then the memorandum was typed up?

A Yes.

Q And then you read over that memorandum?

A Yes.

Q Then what did you do with your handwritten notes?

A They were destroyed.

Q And is this in accordance with the procedures at the Intelligence Division?

A Yes.

MR. DOYLE: I will object to the leading question.

THE COURT: The objection is overruled.

Q Did you make a memorandum of interview everytime you spoke with Mr. Lane?

A Yes. Excuse me, but I made a memorandum of all interviews. There were times we maybe had a conversation on the telephone which I did not prepare a memorandum, but that was merely to set up an appointment for an interview.

MR. HOULIHAN: Would you mark this for
identification?

(Government's Exhibit 18 marked for
identification.)

Q I show you Government's Exhibit 18 marked for identifica-
tion. Is that the memorandum of interview on September 20,
1968?

A Yes, it is.

Q Did you have an opportunity to review this memorandum
before you testified today?

A Yes.

Q From your recollection now after reading that memorandum
of interview, what, if anything, did Mr. Lane tell you
concerning his educational background?

A May I refer to this? I believe he was a graduate of the
University of Buffalo in 1955, and I believe he graduated
from law school in 1957 or '58.

Q And was he then admitted to the bar?

A It was either that year or the following year.

Q Did you have any conversation with him at that time regard-
ing his knowledge of tax returns?

A I don't quite follow that.

Q About his knowledge of the tax laws and the requirements
for filing?

A Only in that he was aware that he did not file the 1965,

'66, '67 income tax returns, and that I believe he informed me at that time that he was presently working on those returns.

Q What else did he tell you at that time?

A Well, the main thing, of course, I always will ask him the reason why he didn't file those particular returns, and the reason he gave me at that time is that he was over-extended in his law practice, which seemed to take all of his time.

Q And did he give you any other reason at that time?

A I don't believe so, at that time.

Q Did he tell you anything about his family situation?

A No.

Q At the time of this initial interview, did you have a conversation with Mr. Lane regarding how he kept his books and records?

A We did discuss his method of operation in that he informed me that he has a law practice in Buffalo, and he had a law practice in Alden, New York, during the years 1965 and 1966, and in his Buffalo practice he maintained what he called a trust account and a business account. The trust account, the money in the trust account, in effect, were the monies belonging to his clients. It was not his money. The money in the business account, checking account -- these are both checking accounts -- the money in

his business account was his money.

Q So he had two accounts, and the business account, did he tell you what he determined from that? How did he keep the business account?

A Well, normally, if he got a check from an insurance company as a result of an insurance claim of sorts, if there was money belonging to his client, he would put that money in the trust account, and if he could determine at that time which money was his, he would put it in his business account. And there were instances where he would transfer money from this trust account to his business account at the time he earned the money.

By the way, I neglected to say he did also have two similar-type checking accounts for his Alden office, and one referred to as a special account, which was the same as the trust account in Buffalo in that that money was not his in that account. He also maintained a regular checking account in Alden, which was similar to his business checking account in Buffalo. The money in that account was his money on income earned during that year.

Q Did you have any conversation with Mr. Lane, or did he tell you about how he determined what his income was for the year?

A Not at this time. This we discussed at subsequent interviews, his actual method of determining income and expenses.

Q Did you have a subsequent meeting with Mr. Lane?

A Yes.

Q And when was that?

A I believe it was August or October 10th. I have to refer to the memorandums for the exact dates.

THE COURT: First, let's nail this question down. Did you have a second interview? You said you thought it was October 10th, 1968, but you said you couldn't tell. Look and tell us what it was.

MR. HOULIHAN: Would you mark this for identification?

(Government's Exhibit 19 marked for identification.)

Q I show you Government's Exhibit 19. Does that refresh your recollection as to the date of the second interview?

A Yes, it does, October 10, 1968.

Q What was the purpose of that interview?

A This was in the office of the Intelligence Division in Buffalo, and Mr. Lane brought his 1965 and 1966 income tax returns to me. However, neither return was signed, and it did not show the tax on the returns.

Q Neither return was signed, and he did not compute the tax. What, if anything, did you talk about at that time other than that?

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

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A well, Mr. Lane informed me that he did not compute the tax because he did not have any tax tables for those prior years, and I informed him that I would get some tables to him as soon as I could locate some, which was the following day.

Q So you had a subsequent meeting with Mr. Lane?

A On October 11th I gave the tax tables to Mr. Lane, and I returned the unsigned 1965 and 1966 tax returns to him.

Q Did Mr. Lane submit any records to you on October 10th other than the unsigned tax returns?

A Yes. There were work papers that he used to prepare the '65 and '66 tax returns.

Q At the time of the initial interview, did he have work papers with him? That was on September 20th, 1968.

A No.

MR. HOULIHAN: Your Honor, in order to save marking these, and I don't expect to offer any of these into evidence, but they are Mr. Kolb's memorandums of interview. I provided Mr. Doyle a copy of each one of those. I would just like to leave them here so he could tell us the next date.

Q Now on October 11th you returned the tax returns to Mr. Lane, is that right?

A Yes.

Q And this was the '65 and '66 tax return?

A That's correct.

Q And did Mr. Lane advise you of anything at that time?

A Yes. He said that he would have his 1965, 1966 and 1967 income tax returns in my possession within two weeks of that time.

Q Did you have a subsequent meeting with Mr. Lane?

A Yes.

Q And when was that?

A October 29th, 1968.

Q What was the purpose of that meeting?

A Mr. Lane submitted his 1965 and 1966 joint income tax returns to me at that time.

Q And was the tax computed on that?

A Yes.

Q Was there any money paid at that time?

A No, there was not.

THE COURT: Do you mean, did he file
the return?

A Yes. He filed the return.

Q Was there any discussion at that time about his 1967 return?

A Yes, there was. Mr. Lane told me at that time he would telephone me after he completed his 1967 return, which he thought would be in about a week.

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

Q Did you have any papers that belonged to Mr. Lane at that point?

A Yes, I did. At that time he said he could not complete his 1967 income tax return because at that time I was in possession of some records Mr. Lane submitted to me, that he needed to prepare his 1967 return, so at that time I did return those requested records back to Mr. Lane.

Q Did you have a subsequent meeting with Mr. Lane?

A Yes.

Q When was that?

A April 16, 1969.

Q What was the purpose of that meeting?

A At that time Mr. Lane submitted his 1967 tax returns to me. He also informed me at that time that in April of 1968 he was in the Buffalo General Hospital and that at that time he was in for surgery as a result of a shoulder injury.

Q At that time when he gave you his 1967 tax return, was that signed?

A Yes.

Q And did payment accompany that return?

A No, there was no payment.

Q At the time of this meeting on April 16th, you just testified that Mr. Lane told you that he was in the hospital in April of 1968?

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

A Yes.

Q Did he offer any other explanation for the failure to file the return at that time?

A No.

Q Did you have a subsequent meeting with Mr. Lane?

A Yes, I did.

Q When was that?

A June 9, 1969.

Q What was the purpose of that meeting?

A Basically, to discuss Mr. Lane's 1965 income tax return and its related work papers.

Q And at that time did Mr. Lane offer any explanation to you about why he did not file a 1965 return?

A No, he did not.

Q Did you have a subsequent meeting with him?

A Yes.

Q When was that?

A June, 1969.

Q What was the purpose of that meeting?

A The main purpose of that was to discuss Mr. Lane's 1966 income tax return and review some work papers.

Q And at that time did Mr. Lane offer any explanation for why he had not filed the 1966 return?

A No.

Q Did you have a subsequent meeting with Mr. Lane?

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

A Yes.

Q When was that?

A July 31, 1969.

Q And what was the purpose of that meeting?

A The purpose of that meeting was basically to review our analysis of the Buffalo bank accounts relative to the year 1966 in which we could be better able to determine income and expense as reflected by those records.

Q As a result of these interviews, did Mr. Lane tell you how he determined income and expenses for the years?

A Yes.

Q Would you please tell the members of the jury how he told you he prepared income and expenses?

A For the Buffalo practice Mr. Lane determined income by reviewing the deposits made into his business checking account, which, in effect, was his money that he earned. We also reviewed the trust account, checks in that account, and there were times Mr. Lane wrote a check out of his trust account which somehow didn't get deposited into his business account, but he informed us as we reviewed these checks that certain checks were, indeed, income and we did include it on our schedule, and, basically, the deposits into the business checking account was income earned that year. Many of the deposits listed the name of a client that he could associate that money with, and

that is basically how we determined his Buffalo practice income.

Q How about expenses with regard to his Buffalo office?

A Most of the expenses were paid out of his business checking account, and we reviewed all the checks from the business checking account and determined through our analysis of all of the checks and review with Mr. Lane what the various checks were for, as far as business expenses, and we totaled those up and allowed him those business expenses.

In addition to that, Mr. Lane informed us that he had cash business expenses which, of course, would not be reflected on a check, and that those cost expenditures would not exceed three hundred dollars in any one year.

Q Did you allow that?

A Yes, we did, and basically, the Alden practice was determined the same way. The deposits into the regular checking account mainly were income items to him, and the expenses written out of the Alden regular account were also given to him in his business expenses.

Q Was it fair to say, then, that he could determine his income and expenses from the consideration of four bank accounts?

A Yes.

Q Did you have a subsequent meeting with Mr. Lane?

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

A Yes.

Q When was that?

A August 11, 1969.

Q What was the purpose of that meeting?

A At that time we reviewed his 1967 business account deposits and generally discussed the 1967 year.

Q And did Mr. Lane advise you at that time of any explanation why he did not file any of his returns for 1965, 1966 and 1967?

MR. DOYLE: I'm going to object. There is no proof that any question was asked.

THE COURT: Objection is overruled.

MR. DOYLE: I respectfully except.

THE WITNESS: Would you repeat that question?

Q Did Mr. Lane give you any explanation at that time regarding an explanation for not filing his '65, '66 or '67 tax return?

A No.

THE COURT: You say "for not filing."
You were investigating, then, about whether he filed them on time, weren't you?

A That's correct.

Q You had a subsequent meeting with Mr. Lane?

A Yes.

Q When was that meeting?

A September 12th, 1969.

Q And what was the purpose of that meeting?

A The main purpose of this meeting was, again, to review some of the --

THE COURT: What did you talk about when you met?

A Mainly the 1967 year, how it related to his business accounts.

Q Did you go over these worksheets at that time?

A Yes. Well, I will stand corrected. They were our work sheets. We did not at this point review the worksheets submitted by Mr. Lane when he initially submitted them with his delinquenty-filed tax returns.

Q So the '67 worksheet was submitted on April 16th when the '67 return was filed?

A That's right. Mr. Lane's worksheets were submitted at the same time of the tax returns.

Q Did you have a subsequent meeting?

A Yes.

Q When was that?

A November 14th, 1969.

Q What was the purpose of that meeting?

THE COURT: What did you talk about?
Not what the purpose was -- he might have had an

undisclosed purpose.

MR. HOULIHAN: I'm sorry, Your Honor.

- Q What, if anything, did you talk about at that meeting?
- A At that time we reviewed his Alden accounts and his Alden practice and determined how he would determine his income and expenses for his Alden practice.
- Q And this was consistent with his determining income and expenses from his Buffalo practice, is that right?
- A Yes.
- Q And that was with regard to the Alden office in reference to two bank accounts?
- A Yes.
- Q Did there come a time that you had another interview with Mr. Lane?
- A Yes.
- Q When was that?
- A May 5, 1970.
- Q And what did you discuss in that meeting?
- A The main discussion centered around a discrepancy on his 1967 tax return. And we did discuss deposits that we weren't sure ourselves just what their purpose or reason for it was, and Mr. Lane told us.
- Q Did you have any discussion at that time with Mr. Lane regarding his wife?
- A At that time Mr. Lane said that he would prefer that I not

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

interview his wife.

Q Did he give you a reason?

A Yes, in that she had been under the care of a psychiatrist for the last two years.

Q For the last two years, and this meeting took place on May 5th, 1970, is that correct?

A That's correct.

Q Is this the first time that you became aware of the fact that his wife was under psychiatric care?

A Yes.

Q Did you have a subsequent meeting again with Mr. Lane?

A Yes, we did.

Q When was that?

A June 9, 1970.

Q And where was that meeting?

A At the office of the Intelligence Division in Buffalo.

Q And who was present at that meeting?

A Mr. Lane was present, his attorney, Mr. Walsh; a Revenue Agent Ordway, and my Group Manager Ludwig and myself.

Q And what, if anything, did you say to Mr. Lane at that time?

A At that time we informed Mr. Lane that my investigation was nearing its completion and that we were contemplating recommending that Mr. Lane be prosecuted for failure to file timely tax returns for the years 1965, 1966 and 1967.

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

And at that time we informed Mr. Lane and his attorney of the approximate amounts of gross income and taxable income and tax for those three years, and then we asked them if they had any further information or anything they wanted to tell us at that time.

Q And you said Mr. Walsh was representing Mr. Lane at that time?

A Yes.

Q And Mr. Walsh filed a power of attorney?

A Yes -- well, no, I will back off. No, he did not file a power of attorney. He did inform me he was going to represent Mr. Lane, and at that time he didn't think a power of attorney was necessary to be filed because he would always be with Mr. Lane.

Q Okay, and Mr. Lane was present, then?

A Yes.

Q And at that time was there any discussion concerning why Mr. Lane had not filed his tax return?

A Yes, there was.

Q And what were those?

A Mr. Lane said at that time that it was always his intention to file income tax returns and that he did not intend to defraud the Government of any tax. He said he did not file timely tax returns for the years 1965, 1966 or 1967 because he was over-extended in his law practice,

and he was over-burdened from work for his clients. In addition, he also said in 1968 he was separated from his wife for a short period of time. Mr. Lane also said that during the three years in question he did not have adequate records to prepare returns, and he also stated that when his 1967 tax return was due, he was in the hospital for a dislocated shoulder operation, and when he was discharged, he was stricken with pleurisy.

THE COURT: We will take a short recess.

(Recess from 3:35 p.m. to 4:00 p.m.)

DIRECT EXAMINATION CONTINUED

BY MR. HOULIHAN:

- Q Mr. Kolb, subsequent to the interview with Mr. Lane and his attorney on June 9th, 1970, did there come a time that you referred the case to the Regional Counsel's Office?
- A Yes. On August 7, 1970, my investigation and report and Exhibits were forwarded to the Regional Counsel Office of Internal Revenue Service.
- Q Sometime after that did Mr. Walsh request an additional interview?
- A Yes.
- Q And when was that?
- A Mr. Walsh telephoned me on August 19th, 1970, and requested a conference that Mrs. Lane wanted to have with me.
- Q And did you have that conference?

*Excerpt from Testimony of Ronald Kolb,
Special Agent, IRS.*

A Yes, we did.

Q When did that conference take place?

A August 21st, 1970.

Q And who was present at that time?

A Mrs. Lane, Mr. Walsh, Special Agent Dermott and myself.

Q At that time what, if anything, did Mrs. Lane tell you?

MR. DOYLE: I will object to this,
Your Honor. It is outside of the presence of
the defendant.

THE COURT: I will sustain the objection.

Q After you had this conference with Mrs. Lane on that date,
did you forward the memorandum of the interview of that
conference to the Regional Counsel's Office?

A Yes.

MR. HOULIHAN: I have no further ques-
tions of this witness.

CROSS EXAMINATION

BY MR. DOYLE:

Q Do you have a copy of that particular interview that the
U. S. Attorney was just talking about that you forwarded
to the Regional Counsel's Office?

A With Mrs. Lane?

Q Yes.

A Yes, I do.

MR. DOYLE: Would you mark this for

* * * * *

*Excerpt from Testimony of Edward C. Cosgrove,
Erie County District Attorney.*

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been a total failure of the willfulness requirement of establishing a prima facie case, and the willfulness, I think, as has been clearly held on a number of cases, and the cases already cited to this Court in my trial brief, requires an evil intent, and there has been absolutely no proof or indication of that.

THE COURT: The motion is denied.

MR. DOYLE: I respectfully except.

(Recess.)

(Jury present.)

MR. DOYLE: We are ready to proceed, Your Honor, with the defense. I will call Mr. Edward Cosgrove.

E D W A R D C. C O S G R O V E,

called as a witness by the Defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DOYLE:

Q Mr. Cosgrove, would you state your occupation for the jury, please?

A Yes. I am the District Attorney of Erie County and have been in that position since January 1st, 1974.

Q Are you an attorney at law, sir?

A I am, sir.

Q How long have you been an attorney?

A Since 1959.

Q Prior to becoming the District Attorney for the County of Erie, sir, were you in any law enforcement agency?

A Yes. Following graduation of law school and following service in the United States Army, I was a Special Agent for the Federal Bureau of Investigation for two and a half years and then came home and practiced law and did so for approximately twelve years, and then became a District Attorney in January of 1974.

Q Incidentally, the County of Erie, that encompasses Buffalo, New York?

A It does, sir.

Q How long have you known the defendant, Robert Lane, sir?

A Thirteen years.

Q This would go back sometime to 1963?

A 1962.

Q Did you practice in the same building that he did, sir?

A We did. Our law offices, my partner and mine, were on the same floor as Mr. Lane's in the Ellicott Square Building in downtown Buffalo.

Q Had you had occasion, sir, to discuss with other members of the legal community in Erie County, as well as other people, the defendant, Robert Lane's, reputation, sir, for truthfulness?

A I have, sir.

Q Have you had a chance to discuss similarly his reputation for honesty?

A I have.

Q And integrity?

A I have.

Q And law-abidingness?

A I have.

Q As a result of those conversations that you have had with these people, have you formed an opinion, sir, as to the defendant's reputation, first of all, for truthfulness?

A Yes, I have formed an opinion.

Q What is that opinion?

A It is opinion of the highest nature.

THE COURT: He is asking for your opinion; not his reputation in the community, but your opinion.

A I understand, Judge. It is my opinion that he has the most excellent --

THE COURT: I might call your attention that that is not character testimony when you ask his opinion. Character testimony is based upon a fact, namely, his reputation in the community; not somebody's opinion of it, but his reputation in the community for truth and integrity.

- Q Have you learned his reputation in the community as a result of these conversations?
- A Yes. He enjoys an excellent and high reputation in the community which I am familiar.
- Q Does that reputation include a reputation for honesty and integrity?
- A It does, sir.
- Q And for truthfulness?
- A It does.
- Q And for law-abidingness?
- A It does.

MR. DOYLE: Your witness.

CROSS EXAMINATION

BY MR. HOULIHAN:

- Q Mr. Cosgrove, during the years that you have known Mr. Lane, have you referred cases to him to handle for you?
- A No, sir.
- Q You have never referred a law case to him?
- A I was a trial lawyer myself, Mr. Houlihan. And I cannot recall, but there might have been one or two matters that we shared by reason of an interest in clients that had claims that arose out of the same transaction. I just don't recall specifically, but I am very well acquainted with Mr. Lane. He and I were members of the Erie County Trial Lawyers Organization. He and I have --

*Excerpt from Testimony of Edward C. Cosgrove,
Erie County District Attorney.*

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THE COURT: That isn't the question.

Q You don't recall ever referring any cases specifically to him?

A Referring cases meaning that I would send a client of mine to him?

Q Yes.

A I don't recall, no.

Q Have you ever discussed with any client of Mr. Lane's his reputation?

A I knew of Mr. Lane's clients, yes.

Q And there were no complaints about Mr. Lane?

A As far as I recall, no.

Q And he always did his work?

A It seemed to me, yes.

Q And during the period of time that you have been District Attorney, has he tried any cases with your staff?

A To my knowledge, I don't know. I have seventy lawyers. He might very well have. I just don't know.

Q But you never heard anything bad about his not getting his work done on time and not being able to keep up with it?

A No, sir.

Q Did you know that he failed to file his income tax returns for 1965, 1966 and 1967?

A I wasn't specifically familiar with that, no.

*Excerpt from Testimony of Edward C. Cosgrove,
Erie County District Attorney.*

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Q And did you know that as of December 17th, 1976, he hasn't
filed any income tax returns for the State for those
particular years?

A I did not know that, sir.

Q And so the people that you talked with regarding his
general reputation, you didn't discuss these facts, did
you?

A No, sir.

MR. HOULIHAN: I have no further questions.

MR. DOYLE: Thank you, Mr. Cosgrove.

(Witness excused.)

* * * * *

*Excerpt from Testimony of Hon. John H. Doerr, Supreme Court Justice,
Eighth Judicial District, N.Y.*

J O H N H . D O E R R ,

called as a witness by the Defendant, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. DOYLE:

Q Would you state your occupation for the jury, please?

A I am a Supreme Court Justice in the Eighth Judicial
 District. That is in the Buffalo area.

Q How long have you served as a Supreme Court Justice in
 the Eighth Judicial District?

A Eight years.

Q Does the Eighth Judicial District include the Buffalo,
 New York, area?

A Yes.

Q Prior to being a Supreme Court Justice up in that area, have you held any other public office?

A I was a New York State Senator.

Q For how long a period of time?

A For one term.

Q Do you know the defendant, Robert Lane?

A Yes, I do.

Q How long have you known him?

A I would estimate fifteen years, give or take -- maybe in the area of fifteen years.

Q Incidentally, are you here pursuant to subpoena?

A Yes, I am.

Q During this fifteen-year period, sir, have you had occasion to discuss with other members of the legal community and the community at large Mr. Lane's reputation in the community, first of all, sir, for honesty and integrity?

A Well, yes. The answer is yes.

Q Have you also had occasion to discuss with other members of the community, sir, his reputation for truthfulness?

A Yes.

Q And also for law-abidingness?

A Yes.

Q As a result of those conversations, sir, have you learned his reputation in the community for those four items?

A Yes, I believe I have.

Q And what is Mr. Lane's reputation for honesty and integrity?

A It is a good reputation.

Q What is his reputation for truthfulness?

A The same thing.

THE COURT: It is the same thing.

A He has a good reputation.

Q And for law-abidingness?

A Law-abiding, yes -- a good reputation.

MR. DOYLE: Thank you. Your witness.

CROSS EXAMINATION

BY MR. HOULIHAN:

Q As I understand, Judge Doerr, you had conversations with other members of the bar, and you said, "Well, what do you know about Robert Lane as far as law-abiding?" Did you talk about "law-abiding"?

A Lawyers are the greatest gossips in the world. We sit around and talk about each other on things that come up. You know, you talk.

Q You mean you just a general feeling that he does his work and he is pretty well-liked as a lawyer?

A Yes.

Q And you haven't heard anything bad about him in your dealings with him?

A No, I haven't.

Q Was he ever tried a case in front of you?

A Oh, yes.

Q When you were in private practice, did you ever refer cases to him?

A Refer cases to him? No.

Q And he has tried cases in front of you?

A Yes.

Q And did he show up for trial when he was supposed to?

A To the best of my recollection, as much as lawyers do. They are on trial. They have to show up.

Q Because that is your rules, is that right?

A Yes.

Q And when you called him in, he would come and show up and represent his client, is that right?

A To the best of my recollection, he would show up, yes.

Q In the times that you discussed the general reputation of Mr. Lane, did you discuss the fact that he hadn't filed his 1965, 1966 and 1967 income tax returns?

A The only time that came up was when the Indictment came down. It was so long ago, I had forgotten about it. I had forgotten about this.

Q So what you are saying, then, that his general reputation is more recent, in the last four or five years?

A No. You asked me if we discussed his trouble here, and the only time that was ever discussed is when the

*Excerpt from Testimony of Hon. John H. Doerr, Supreme Court Justice,
Eighth Judicial District, N.Y.* 105

Indictment first came down.

Q And his reputation wasn't harmed at all by this?

A Not with me, it wasn't. I can't speak for what it did with other lawyers.

Q But you felt that even though he hadn't filed his 1965, 1966 and 1967 returns, that that didn't make any difference to his reputation?

A I couldn't say it made any difference, because I did the same thing.

Q You did the same thing?

A Yes. I didn't file. I have since filed, but there were times when I got extensions.

Q But did you do it for three years?

A I believe I probably did.

Q You failed to file for three consecutive years?

A Yes, sir.

Q When was this?

A Probably the mid-60's until late 60's.

Q And you say you did not file a return at all for three consecutive years?

A I believe that is right.

Q Do you know or don't you know? Is it possible?

A It may be more than three years.

Q Are you saying that you filed late, or are you saying that you didn't file?

A I didn't file. I have since filed everything. I have cleaned up my act.

Q And you knew you hadn't filed, I presume?

A Yes.

Q Now, you say you didn't file several times now, and you have cleared it all up?

A Yes.

Q Have you cleared up the State returns?

A Yes, I have cleared everything up.

Q Did you know that Mr. Lane hasn't as of December 17, 1976, it is about a week ago, he hasn't even filed the State returns for 1965, 1966 and 1967?

A I don't know that. If you tell me that he hasn't, I take your word for it. I don't know that he hasn't.

Q Would that affect your opinion of him?

A No.

Q Not at all?

A No.

MR. HOULIHAN: Thank you, Judge.

MR. DOYLE: Thank you, Judge.

(Witness excused.)

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Excerpt from Testimony of Patrick Lee.

PATRICK LEE,

called as a witness by the Defendant, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. DOYLE:

Q Mr. Lee, sir, would you state your occupation for the jury, please?

A I am President of an industrial manufacturing company in the fluid power industry.

Q What is the name of the corporation of which you are President?

A Enidine, and that is spelled E-n-i-d-i-n-e.

Q Sir, how long have you been President of Enidine?

A About fifteen years.

Q Would that go back to 1961?

A Yes.

Q Sir, would you recite for the jury, please, your educational background?

A I graduated from high school at Creighton Prep in Omaha, Nebraska, and I am a graduate aeronautical engineer from St. Louis University.

Q Now in connection with this Enidine Corporation that you have told us about, are you also a stockholder in that corporation?

A Yes, I am.

Q You say you know Mr. Lane for some fifteen years, since 1961, and in what capacity do you know him, sir?

A He was introduced to me back in 1960, and I asked Bob to

Excerpt from Testimony of Patrick Lee.

help me form my corporation, and he incorporated my company.

Q And that would have been when, sir?

A That would have been in 1961.

Q Did he take any part in the corporation itself, any official part?

A Yes. With my association with Bob, he helped me set up my banking and also my accounting personnel; therefore, we made him a Director of the corporation, also Secretary. And he is also a small stockholder in my company.

Q Does he receive any compensation for being a Director and Secretary?

A No.

Q Sir, is he, in fact, your attorney today?

A Yes, he is.

Q Let me go back a bit. Aside from this relationship of him serving as your attorney for the corporation, is he also your family attorney?

A Yes. He helped me in purchasing my home and also I became legal guardian for a teen-age boy back in the early 60's.

THE COURT: He just wants to know if he is your lawyer? That is what the question was.

THE WITNESS: Yes, he is my personal lawyer.

Q Are you social friends at all with the Lanes?

A No, I am not.

Q Directing your attention, sir, to some ten years ago, and two years on either side of that, so from 1964 to 1966, was Mr. Lane continuing to serve as counsel to your corporation?

A He was still officially counsel, yes.

Q Would you tell us, sir, what, if anything, happened during that period of time, '64 through '68, with respect to his handling your affairs of the corporation?

A During this period of time, starting in '64, we found that Bob was not handling the duties in the same manner he had previously done for us. His viewpoint was very difficult to reach, and he was not able to attend most of our Board meetings. When certain legal assignments had to go through his particular corporation, or his legal office, they were quite late, so that in the latter part of 1968, we hired another law firm to help us with our corporate business.

Q As early as 1964, you had noticed this difficulty?

A In the start of '64, yes.

Q Did you ever find out the reason for that difficulty, sir?

A I did in February of 1968 when Bob and I went to Washington on a business trip, and I was supposed to pick him up at his home, and he gave me another address to pick him up

at, and that is when he informed me he was no longer living with his wife.

Q This was the first time you had heard of the cause of any of this?

A That's correct.

Q Did he discuss the matter with you at all, sir?

A No. Bob is a very private person.

Q During this period of '64 to '68, sir, did you discharge him as your corporate attorney?

A No, I did not.

Q What did you do with respect to that?

A We sort of just let things ride along, and we were hoping that he would just sort of find his own way and get things straightened out and be able to later on do his duties as a corporate attorney for my company.

Q Did that fact happen, sir?

A Yes. Back in 1970, '71, we then went through some additional large amount of corporate work, and even as of today and as of this date for the last four, five years, Bob has done all of our work and has done it in his usual manner.

MR. DOYLE: Thank you, Mr. Lee.

CROSS EXAMINATION

BY MR. HOULIHAN:

Q Mr. Lee, you mentioned that he originally helped you

organize your corporation, is that right?

A That's correct.

Q He did the incorporation?

A Yes.

Q As part of that, and then he became a member of the Board of Directors and served on the Board of Directors?

A That's correct.

Q And you also mentioned that he set up your banking and accounting?

A When I set up, he introduced me to one of Buffalo's local banks to help us obtain an original equipment loan that we needed to start the business.

Q This period of time that you say that he fell down on the job, you say from '64 to '68?

A Yes.

Q He was still your attorney?

A Yes.

Q And you retained outside counsel?

A In '68 we did, yes.

Q In '68, but not in '64 or '65 or '66?

A In '68 we acquired another corporation, which was a very major part of our business, and it required some extensive legal work, and at that time we felt that Bob was not in a position to do it. This is when we brought in outside counsel.

Q Isn't it a fact that Mr. Lane is a trial lawyer?

A He is a trial lawyer as far as I know, yes. He also does trial work, yes.

Q And isn't it a fact that the people you went to kind of specialized in corporate acquisitions?

A Prior to that time Bob had done corporate acquisitions.

Q The firm that you went to in 1968, didn't they specialize in corporate work?

A No, to the contrary. I think they are more well known for their trial work. I mean they have one particular partner who did corporate rather than trial work, but I don't believe that it was exclusive, at least to the best of my knowledge.

Q But they had one partner who specialized in corporate work?

A That is true.

Q And he is the one that oversaw everything that happened with your new business in 1968?

A That's correct.

Q So, in effect, what you are saying is that the acquisition in 1968 was so big that Bob, as a sole practitioner, just couldn't handle it?

A No, that is not true at all. If I can relate to the subject, even today we just completed a merger much larger than that, and Bob handled that this last year. The reason for it was the fact that we required his time. He

had to do some traveling because this was an out-of-state acquisition, and Bob was not available. This was the reason why we went to him. It was not for the fact that this company was any more specialized in law than he was.

Q In 1968 was the only time that you sought outside counsel? Until that time he was doing your work, and you didn't see the need to go to outside counsel, is that right?

A No. In 1964 I had to do it for one other occasion when one of our stockholders left town and was dropping out. We needed a special release form made up. Bob, again, was not available, so I had to use outside counsel. I used a number of corporate counsel during this period of time. The one in '68 was the most extensive, because it was the largest acquisition that we made.

Q Since that time you have used outside counsel as well?

A The last time was 1970.

Q These times when Bob was unavailable was because he was trying cases in court, is that right? I mean, you didn't call him at night, did you, to do your work?

A Did I call him at night?

Q Yes.

MR. DOYLE: I object to the form of the question. It is compound. I don't know which question is supposed to be answered.

THE COURT: Objection is overruled. If

he doesn't understand the question, ask to have it repeated.

THE WITNESS: Repeat the question.

Q Mr. Lee, did you call Mr. Lane at home?

A I called Mr. Lane at home during that period of time, yes.

Q During '64, '65 and '66?

A Yes.

Q And were you able to get ahold of him?

A Sometimes.

Q And was it on those occasions that he agreed to do the work, or he said he couldn't do it?

A He would say, "I will get to it," and time would just pass to the point that I could not wait any longer.

Q You mentioned that in January or February of 1968 you went on a trip, and it was at that point that you discovered that Bob was separated from his wife, is that right?

A Right.

Q Did he tell you how long he had been separated?

A He had mentioned that he had not been living at home for a number of months. That is all I recall on it.

Q A number of months?

A Yes.

Q Did you know that that was a three-month separation, total time?

A At that time, no, I didn't know.

Q Were you aware during the period from 1965, '66 and '67 that he had not filed his income tax returns?

A The first time I heard about it was on the six o'clock news in Buffalo sometime in --

THE COURT: It was at the time of the Indictment?

A Yes. That is the first time I heard about it.

Q Do you know that as of December 17, 1976, he hasn't filed the State returns for those years?

MR. DOYLE: Your Honor, that is irrelevant. This is not a character witness.

THE COURT: I will sustain the objection.

MR. HOULIHAN: I have nothing further.

(Witness excused.)

D O R I S H I L L,

called as a witness by the Defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DOYLE:

Q Mrs. Hill, would you state your occupation for the jury, please?

A I am a counseling psychologist for the Buffalo Board of Education.

Q How long have you been so employed?

A About ten years.

* * * * *

ment waives the cross-examination of Mrs. Lane.

R O B E R T J . L A N E ,

the Defendant, called as a witness in his own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DOYLE:

Q Mr. Lane, sir, would you state your occupation for this jury?

A I am an attorney at law.

Q How long have you been an attorney at law?

A I was admitted in November of 1958.

Q Directing your attention, if I might, to the early 1960's, sir, did there come a time when you were engaged in the practice of law in two separate offices?

A Yes. In early 1960 I left the first employment that I had, and I went to work for an attorney by the name of John Cook in Alden, New York, and I was an employee of his, and he also allowed me to try to open my own business in Buffalo and develop that at the same time.

Q By 1965, 1966 and 1967, did that situation continue to exist, that of having two offices?

A Yes.

Q When did you close the Alden office?

A In 1966.

Q What was the reason for closing the Alden office?

A The Alden office for the prior couple of years had been running at a loss. I was not able to handle both offices. I just didn't have enough time, and I found that I was making a better part, a much more substantial part of my income, out of the Buffalo office.

Q During the taxable years 1965, 1966 and 1967, can you describe for us, sir, what percentage of your income was coming from the Buffalo office and contrast it to the Alden office?

A Well, as I said, during '65 and '66, the last two years I had the office, it ran at a loss, so all of my net income came out of Buffalo.

Q You heard the testimony of your former secretary that the figures for '65 and '66 were fifteen hundred dollars, or roughly, a thousand dollars income from that office for those two years?

A Yes, sir.

Q Was that accurate?

A That was accurate.

Q During, again, this period, 1964 through 1968, I take it for at least three of those four years you were operating out of two offices?

A That's correct.

Q Did you have any other employment during those four years?

A Yes. In the Alden office, while in Alden where we lived

at the time, I was for a period of one year the Town Attorney for the Town of Alden.

Q What was the compensation for that?

A That was temporary -- I should say part-time employment at \$3,200 a year, and I believe the year after that for a period of about four weeks I was a Special Deputy Attorney General for the State of New York covering election matters during election time in the County of Erie. It is their system to appoint one attorney who then has ten total volunteers, ten Democratic attorneys and then ten Republican attorneys who work with him on Election Day with respect to any problems concerning people and their right to vote and things of that nature.

Q Mr. Lane, incidentally, there has been an Exhibit here offered by the Government indicating you did not file your State income taxes for the years '65, '66 and '67, is that true, sir?

A That is true.

Q Can you please tell us the reason why you did not file your State income taxes for those three years?

A Yes, sir. With this matter pending, I was advised when everything is wrapped up, the Government's results would be sent to the State, and I would receive a bill. It is my understanding when the Federal Government audits somebody -- and I went through a complete audit on all these

years with the Federal Government, cancelled check by cancelled check -- that that is turned over to the State and the State will then bill me, and then I will then pay them.

Q You say you were advised of this. Were you advised by your attorneys?

A Yes, I was.

THE COURT: Your New York State Tax Returns were due for those years long before this audit, weren't they?

A That's correct, sir.

Q First of all, Mr. Lane, let me just cover that.

The first time when you were contacted by the Federal Government in connection with the returns for '65, '66 and '67 was in '68, is that correct?

A That's correct.

THE COURT: That is the first time you were contacted, but you don't intend they weren't due before then, do you?

A No, sir, I do not.

Q All right, fine. In '68 did you obtain the services of Mr. Walsh as your attorney?

A Yes.

Q And thereafter Mr. McDonough --

A Excuse me, but I believe Mr. Walsh did not represent me.

* * * * *

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Attorney ☒ for **Appellee,**

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United States Attorney, Western District of N. Y.